

**Federal Defenders
OF NEW YORK, INC.**

Southern District
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June 25, 2021

VIA ECF

The Honorable Alvin K. Hellerstein
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

So ordered. Counsel will suggest an agreed motion schedule.

/s/ Alvin K. Hellerstein
Alvin K. Hellerstein
6/28/21

Re: *United States v. Robert Lemke*, 19 CR 582 (AKH)

Dear Judge Hellerstein:

On June 7, 2021, at ECF Doc. No. 17, the Court ordered the parties to be prepared to start trial on July 13, 2021, subject to the status of the two previously scheduled cases on the court-wide trial calendar. The Court set July 7, 2021 as a date for a Final Pretrial Conference. The Court further ordered the parties to file all motions “sufficiently in advance of the Final Pretrial Conference.”

We jointly write to ask that the schedule set by the Court for motions be adjourned, and that a new schedule be set at our upcoming pretrial conference.

As an initial matter, the parties understand that one of the two cases in line to start trial before Mr. Lemke’s case, in fact, is going to trial. As such, it is not likely that Mr. Lemke’s trial will start on July 13, 2021.

Moreover, the defense is not able to effectively prepare its motions under the current schedule. Following the Court’s June 7 Order, the government filed a Superseding Indictment on June 21, 2021. The government also produced additional discovery that counsel is reviewing. Because Mr. Lemke is housed at Essex County Jail and our access to him is limited, Mr. Lemke does not know about the Superseding Indictment, nor has he received or been able to review the new discovery. Additionally, although the government is in the process of responding to Mr. Lemke’s request for a bill of particulars, the defense is still without particularized details that are needed to determine what motions *in limine* Mr. Lemke will file. In addition to motions *in limine*, Mr. Lemke also intends to file a motion to suppress his post-arrest statement. In sum, we need more time with the new Indictment, our client, and the discovery to effectively

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prepare pretrial motions and motions *in limine*.¹

For these reasons, we ask that the current motion schedule be adjourned and that a new schedule for pretrial motions and motions *in limine* be set, along with a new trial date, when the parties appear before the Court on July 7, 2021.

Thank you for your consideration of this matter.

Respectfully submitted,

/s/Julia Gatto
Julia L. Gatto
Assistant Federal Defender
(212) 417-8750

cc: AUSAs Kyle Wirshba/Kim Ravener (via ECF)

¹ The Government respectfully submits that the superseding indictment is based upon the same evidence previously produced to the defense. The Government's investigation is ongoing, and the Government has continued to produce discovery accordingly. The Government is also in the process of providing additional details to the defense, to accommodate their requests. Nonetheless, given the circumstances surrounding the trial date and to avoid undue burden upon the witnesses and victims in this case, the Government joins in the defense's application to adjourn the motion schedule and trial date in this case.